

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	3:05-CR-114-RCJ (RAM)
)	
Plaintiff,)	
)	<u>ORDER</u>
vs.)	
)	
MARK CAPENER, et al.,)	
)	
Defendants.)	
)	

Pursuant to the court's order of July 19, 2006 (Doc. #122), the Nevada State Board of Medical Examiners delivered documents to chambers of the undersigned on August 15, 2006, for an *in camera* review.

The records are basically peer reviews of complaints against Dr. Capener requested by the Nevada State Board of Medical Examiners utilized by the Board to determine whether or not any formal complaints to initiate formal administrative disciplinary proceedings against Dr. Capener should be brought. Four of the reviews involved persons named in the Superseding Indictment (Doc. #4).

The Board delivered two sets of the documents, one set has the identification of the peer reviewers redacted.

After reviewing the records provided and the Order issued by Judge Jones (Doc. #122), it is the court's opinion that these documents should be produced pursuant to the Defendant's May 1, 2006, Subpoena Duces Tecum. The court is of the opinion that the identity of the peer reviewers is unnecessary and not relevant to this proceeding and, therefore, the redacted copy of the documents shall be produced.

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1 **IT IS HEREBY ORDERED** that the Nevada State Board of Medical Examiners will produce
2 a redacted copy of the documents submitted to the court for *in camera* review to the Defendants by
3 forwarding them to counsel for Defendants no later than the close of business on Monday, August 28,
4 2006.

5 DATED: August 25, 2006.



UNITED STATES MAGISTRATE JUDGE